

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1045-AIR-E TCEQ ID RN100226026 CASE NO. 37920
RESPONDENT NAME: SID RICHARDSON CARBON, LTD

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: Midway Road, one mile north of Interstate Highway 20, Big Spring, Howard County

TYPE OF OPERATION: Carbon black production plant

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 5, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. James Nolan, Air Enforcement Section, MC 149, (512) 239-6634

TCEQ Regional Contact: Ms. Alice Cone, Midland Regional Office, MC R-7, (432) 570-1359

Respondent: Mr. Ken Pope, Plant Manager, Sid Richardson Carbon, LTD., 201 Main Street, Suite 3000, Fort Worth, TX 76102

Respondent's Attorney: Mr. Robert T. Stewart, Kelly Hart & Hallman, LLP, 301 Congress Ave., Ste. 2000, Austin, TX 78701

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 29, 2009</p> <p>Date of NOE Relating to this Case: May 27, 2009</p> <p>Background Facts: The EDPRP was filed on November 24, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on May 3, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation certifying compliance.</p> <p>AIR:</p> <ol style="list-style-type: none"> Failed to record opacity readings three days per week [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151, Special Condition No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to conduct and record three weekly opacity readings as required for each facility [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151, Special Condition Nos. 3 and 11G, and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to report each instance of a deviation (failure to conduct opacity readings) in the semi-annual deviation reports [30 TEX. ADMIN. CODE § 122.145(2)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$10,788</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$10,788</p> <p>Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Implement improvements to policies, procedures, training, and/or oversight of personnel in order to ensure opacity monitoring is conducted, recorded, and reported completely and accurately; and Implement improvements to policies, procedures, training, and/or oversight of personnel in order to ensure the complete and accurate reporting of deviations within semi-annual deviation reports. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Jun-2009			
	PCW	9-Oct-2009	Screening	7-Jul-2009	EPA Due 2-Mar-2010

RESPONDENT/FACILITY INFORMATION					
Respondent	Sid Richardson Carbon, LTD				
Reg. Ent. Ref. No.	RN100226026				
Facility/Site Region	7-Midland	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	37920	No. of Violations	3		
Docket No.	2009-1045-AIR-E	Order Type	1660		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	James Nolan		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,300
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	16.0% Enhancement	Subtotals 2, 3, & 7	\$1,488
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Notes: Penalty enhancement due to two previous similar NOVs and three previous non-similar NOVs.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$533
 Approx. Cost of Compliance \$1,750
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,788
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$10,788
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,788
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$10,788
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Screening Date 7-Jul-2009

Docket No. 2009-1045-AIR-E

PCW

Respondent Sid Richardson Carbon, LTD

Policy Revision 2 (September 2002)

Case ID No. 37920

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100226026

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 16%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement due to two previous similar NOV's and three previous non-similar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 16%

Screening Date 7-Jul-2009 **Docket No.** 2009-1045-AIR-E **PCW**
Respondent Sid Richardson Carbon, LTD *Policy Revision 2 (September 2002)*
Case ID No. 37920 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100226026
Media [Statute] Air
Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151 Special Condition No. 3, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to record opacity readings three days per week. Specifically, only two of the required three weekly opacity readings were recorded for Emission Point Numbers ("EPN") 7A, 12A, and 13A at the Plant during the week beginning February 5, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
Potential				Percent 0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 1%
				x	

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$115 **Violation Final Penalty Total** \$116

This violation Final Assessed Penalty (adjusted for limits) \$116

Economic Benefit Worksheet

Respondent Sid Richardson Carbon, LTD
Case ID No. 37920
Reg. Ent. Reference No. RN100226026
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$750	5-Feb-2007	2-Mar-2010	3.07	\$115	n/a	\$115

Notes for DELAYED costs

These are estimated costs for additional oversight to ensure opacity monitoring is recorded and reported completely and accurately. The date required is the date the plant failed to record opacity and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$115

Screening Date 7-Jul-2009 Docket No. 2009-1045-AIR-E PCW

Respondent Sid Richardson Carbon, LTD Policy Revision 2 (September 2002)
 Case ID No. 37920 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100226026

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151 Special Condition Nos. 3 and 11G, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct and record three weekly opacity readings as required for each facility authorized by the permit. Specifically, opacity readings for EPNs SF-1, SF-2, SF-3, DF-1A, DF-1B, DF-2, Flare-1, Flare-2, and Flare-3 have been conducted on a monthly basis instead of three times per week as required.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 69 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$9,000

Nine single events are recommended, one for each EPN.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$390 Violation Final Penalty Total \$10,440

This violation Final Assessed Penalty (adjusted for limits) \$10,440

Economic Benefit Worksheet

Respondent Sid Richardson Carbon, LTD
Case ID No. 37920
Reg. Ent. Reference No. RN100226026
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$750	30-Aug-1999	21-Jan-2010	10.40	\$390	n/a	\$390

Notes for DELAYED costs

These are estimated costs for additional oversight to ensure opacity monitoring is conducted, recorded, and reported completely and accurately for all applicable units. The date required is the date the plant operations began and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$390

Screening Date 7-Jul-2009 **Docket No.** 2009-1045-AIR-E **PCW**
Respondent Sid Richardson Carbon, LTD *Policy Revision 2 (September 2002)*
Case ID No. 37920 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100226026
Media [Statute] Air
Enf. Coordinator James Nolan

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 122.145(2)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to report each instance of a deviation in the semi-annual deviation reports. Specifically, the Respondent did not report deviations regarding the failure to conduct opacity readings of EPNs SF-1, SF-2, SF-3, DF-1A, DF-1B, DF-2, Flare-1, Flare-2, and Flare-3 during the April 1, 2007 through September 30, 2007 and October 1, 2007 through March 31, 2008 deviation reporting periods.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential				
				Percent 0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
				x	Percent 1%

Matrix Notes
 Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 2 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended for the two semi-annual deviation reports.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$28 **Violation Final Penalty Total** \$232

This violation Final Assessed Penalty (adjusted for limits) \$232

Economic Benefit Worksheet

Respondent Sid Richardson Carbon, LTD
Case ID No. 37920
Reg. Ent. Reference No. RN100226026
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	30-Oct-2007	21-Jan-2010	2.23	\$28	n/a	\$28

Notes for DELAYED costs

Estimated cost of including opacity reading deviations in the semi-annual deviation reports. The date required is the date the first semi-annual deviation report was due and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$28

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600131171 Sid Richardson Carbon, LTD	Classification: AVERAGE	Rating: 1.93
Regulated Entity:	RN100226026 SID RICHARDSON CARBON BIG	Classification: AVERAGE	Site Rating: 0.59
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HT0027B
	AIR OPERATING PERMITS	PERMIT	1550
	AIR NEW SOURCE PERMITS	PERMIT	6580
	AIR NEW SOURCE PERMITS	PERMIT	9093
	AIR NEW SOURCE PERMITS	PERMIT	20884
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HT0027B
	AIR NEW SOURCE PERMITS	AFS NUM	4822700002
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX151M1
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1140032
	WASTEWATER	PERMIT	WQ0004771000
	WASTEWATER	PERMIT	WQ0004600000

Location: On Midway Road, one mile north of Interstate Highway 20 in Big Spring, TX
TCEQ Region: REGION 07 - MIDLAND
Date Compliance History Prepared: July 07, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 07, 2004 to July 07, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: James Nolan Phone: (512) 239-6634

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	10/13/2004	(336978)		14	08/13/2007	(568025)
2	02/09/2006	(454684)		15	10/16/2007	(574356)
3	02/28/2006	(457202)		16	10/31/2007	(599551)
4	02/28/2006	(457625)		17	12/10/2007	(611546)
5	03/06/2006	(457894)		18	01/08/2008	(613657)
6	04/05/2006	(461564)		19	04/28/2008	(646532)
7	06/27/2006	(466320)		20	01/21/2009	(723996)
8	08/04/2006	(487883)		21	01/22/2009	(723742)
9	09/08/2006	(512071)		22	05/21/2009	(746205)
10	10/06/2006	(511478)		23	05/22/2009	(746648)
11	10/25/2006	(517241)		24	06/01/2009	(746855)
12	07/02/2007	(566331)		25	06/05/2009	(746085)
13	08/08/2007	(568918)				

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 1 Date: 01/18/2006 (439676) CN600131171
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.4
5C THC Chapter 382, SubChapter A 382.085(a)
Description: Failure to prevent a nuisance condition off site.
 - 2 Date: 08/04/2006 (487883) CN600131171
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)
Permit No. 6580/PSD-TX-151 S.C. 3 PERMIT
Description: Failure to conduct opacity readings by a certified opacity reader on March 2, 2005 and on March 9, 2005 as required by Special Condition 3 of Permit No. 6580/PSD-TX-151.
 - 3 Date: 08/13/2007 (568025) CN600131171
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
6580/PSD-TX-151, SC# 3 PERMIT
Description: Failure to perform required opacity readings.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 116, SubChapter B 116.115(c)
NSR Permit 6580/PSD-TX-151, SC# 1 PERMIT
Description: Failure to prevent unauthorized emissions from entering the atmosphere.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
Description: The RE failed to submit the required report to the agency within the allotted time frame.
4 Date: 08/31/2007 (571285) CN600131171
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.4
Description: Unauthorized discharge of industrial solid waste
5 Date: 04/30/2009 (746205) CN600131171
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
Description: This water system exceeded the MCL of 10 mg/L for nitrate (as nitrogen).

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<p>IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING SID RICHARDSON CARBON, LTD; RN100226026</p>	<p>§ § § § §</p>	<p>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</p>
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**AGREED ORDER
DOCKET NO. 2009-1045-AIR-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Sid Richardson Carbon, LTD (“Sid Richardson”) under the authority of TEX. WATER CODE ch. 7 and HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Sid Richardson, represented by Robert T. Stewart of the law firm of Kelly Hart & Hallman LLP, appear before the Commission and together stipulate that:

1. Sid Richardson owns and operates a carbon black production plant on Midway Road, one mile north of Interstate Highway 20 in Big Spring, Howard County, Texas (the “Plant”). The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Sid Richardson agree that the Commission has jurisdiction to enter this Agreed Order, and that Sid Richardson is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Sid Richardson of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of ten thousand seven hundred eighty-eight dollars (\$10,788.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Sid Richardson paid ten thousand seven hundred eighty-eight dollars (\$10,788.00) of the administrative penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Sid Richardson agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Sid Richardson has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on April 29, 2009, a TCEQ Midland Regional Office investigator documented that Sid Richardson violated:
 - a. 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151, Special Condition No. 3, and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to record opacity readings three days per week. Specifically, only two of the required three weekly opacity readings were recorded for Emission Point Numbers ("EPN") 7A, 12A, and 13A at the Plant during the week beginning February 5, 2007.
 - b. 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c), New Source Review Permit No. 6580/PSD-TX-151, Special Condition Nos. 3 and 11G, and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct and record three weekly opacity readings as required for each facility authorized by the permit. Specifically, opacity readings for EPNs SF-1, SF-2, SF-3, DF-1A, DF-1B, DF-2, Flare-1, Flare-2, and Flare-3 have been conducted on a monthly basis instead of three times per week as required.
 - c. 30 TEX. ADMIN. CODE § 122.145(2)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to report each instance of a deviation in the semi-annual deviation reports. Specifically, Sid Richardson did not report deviations regarding the failure to conduct opacity readings of EPNs SF-1, SF-2, SF-3, DF-1A, DF-1B, DF-2, Flare-1, Flare-2, and Flare-3 during the April 1, 2007 through September 30, 2007 and October 1, 2007 through March 31, 2008 deviation reporting periods.

2. Sid Richardson received notice of the violations on or about June 1, 2009.

III. DENIALS

Sid Richardson generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Sid Richardson pay an administrative penalty as set forth in Section I, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Sid Richardson's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. Sid Richardson shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Sid Richardson shall:
 - i. Implement improvements to polices, procedures, training, and/or oversight of personnel in order to ensure opacity monitoring is conducted, recorded, and reported completely and accurately, as required by New Source Review Permit No. 6580/PSD-TX-151; and
 - ii. Implement improvements to polices, procedures, training, and/or oversight of personnel in order to ensure the complete and accurate reporting of deviations within semi-annual deviation reports, in accordance with 30 TEX. ADMIN. CODE § 122.145.
- b. Within 45 days after the effective date of this Agreed Order, Sid Richardson shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Alice Cone, Air Section Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

3. The provisions of this Agreed Order shall apply to and be binding upon Sid Richardson. Sid Richardson is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Sid Richardson fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Sid Richardson's failure to comply is not a violation of this Agreed Order. Sid Richardson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sid Richardson shall notify the Executive Director within seven days after Sid Richardson becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Sid Richardson shall be made in writing to the Executive Director. Extensions are not effective until Sid Richardson receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Sid Richardson in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

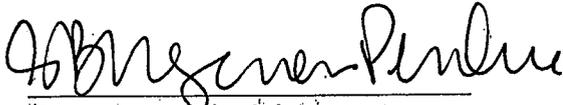
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Sid Richardson, or three days after the date on which the Commission mails notice of this Agreed Order to Sid Richardson, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/29/2010

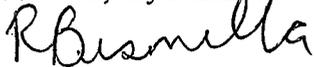
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that Sid Richardson's failure to comply with the Ordering Provisions, if any, in this order and/or Sid Richardson's failure to timely pay the penalty amount, may result in:

- A negative impact on Sid Richardson's compliance history;
- Greater scrutiny of any permit applications submitted by Sid Richardson;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Sid Richardson;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Sid Richardson; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

5/31/2010

Date

REAZ BISMILLA

Name (Printed or typed)

VP- Production

Title

Authorized representative of
Sid Richardson Carbon, LTD